

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

July 10, 2000

D035289 In re Claude C, a Juvenile

Upon filing a written abandonment of appeal, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 19(b)).

D033626 In re Lynch on Habeas Corpus

The pending petition for writ of habeas corpus is consolidated with the pending appeal, D027357, for disposition.

D027357 People v. Lynch

D028895 People v. Lynch

D033626 In re Lynch on Habeas Corpus

The judgment is affirmed. The petition for a writ of habeas corpus is denied. Kremer, P.J.;
We Concur: Nares, J, McIntyre, J.

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices
Richard Huffman and Gilbert Nares

Deputy Clerk: D. E. Moore

D031255 Penn v. Prestige Stations, Inc.

Cause called on merits. R. Morgan Holland, Esq. argued for appellant. Rita Gunasekaran, Esq. argued
for respondent. Mr. Holland replied for appellant. Cause submitted.

Court recessed at 9:30 a.m. to change panel members. New panel members: The Honorable Don Work,
Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and Judith Haller

D033669 Ramos v. Countrywide Home Loans, Inc.

Cause called on merits. Matthew Larabee, Esq. argued for appellant. Norman B. Blumenthal, Esq.
argued for respondent. Mr. Larabee replied for appellant. Cause submitted.

Court recessed at 10:08 a.m. to change panel members. New panel members: The Honorable
Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and
James McIntyre

D034463 McDuff v. Carpenter

Cause called on merits. Charles A. Viviano, Esq. argued for appellant. Elizabeth Reed, Esq. argued for
respondent. Mr. Viviano replied for appellant. Cause submitted.

D033448 People v. Buckle

Cause called on merits. Martin Nebrija Buchanan, Esq. was present in oral argument for appellant.
Elizabeth Voorhies, Deputy Attorney General argued for respondent. Cause submitted.

COURT OF APPEAL OF STATE OF CALIFORNIA
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DIVISION ONE

July 10, 2000 (Continued)

D033779 Steinbuch v. Medtronic, Inc.

Cause called on merits. Joseph C. Owens, Esq. argued for appellant. T. Michael Reed, Esq. argued for respondent. Mr. Reed replied for appellant. Cause submitted.

Court recessed at 10:54 a.m. to change panel members. New panel members: The Honorable Don Work, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and James McIntyre

D033453 San Diego City Firefighters v. City of San Diego

Cause called on merits. Joel Klevens, Esq. argued for appellant. Sharon Marshall, Deputy City Attorney argued for respondent. Mr. Klevens replied for appellant. Cause to be submitted at a later date.

Court recessed at 11:30 a.m. until 1:30 p.m.

D033549 People v. Klettke

Judgment affirmed. Nares, J.; We Concur: Kremer, P.J., Benke, J.

D034880 In re Eternal D., a Juvenile

The judgment is affirmed. Nares, J.; We Concur: Kremer, P.J., Huffman, J.

D035187 In re Alysse B. et al., Juveniles

The judgments are affirmed. Huffman, J.; We Concur: Benke, Acting P.J., Haller, J.

D035168 In re Jamie S. et al., Juveniles

The orders are affirmed. Huffman, J.; We Concur: Kremer, P.J., Work, J.

Court reconvened at 1:30 p.m.

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Don Work and Gilbert Nares
Deputy Clerk: D. E. Moore

D035100 In re Briana G., a juvenile

Cause called on merits. Alice C. Shotton, Esq. argued for appellant. Andrea St. Julian, Esq. argued for the minor. Gary Seiser, Deputy County Counsel argued for respondent. Ms. Shotton replied for appellant. Cause submitted.

D034565 Local 52, United Government Security v. Security USA

Cause called on merits. Daniel B. MacLeod, Esq. argued for appellant. Philip Emil Drysdale, Esq. argued for respondent. Mr. MacLeod replied for appellant. Cause submitted.

D032592 People v. Haines

Cause called on merits. Joel Liberson, Esq. argued for appellant. Angela Rosenau, Deputy Attorney General argued for respondent. Mr. Liberson replied for appellant. Cause submitted.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

July 10, 2000 (Continued)

D034287 Kirkorowicz v. California Coastal Commission

Cause called on merits. Lisa Trankley, Deputy Attorney General argued for appellant. Donald R. Worley, Esq. argued for respondent. Cause submitted.

Court recessed at 2:53 p.m. until Tuesday, July 11, 2000 at 9:00 a.m.

D033115 In re Hawkes Family Trust/Hawkes v. Sommer et al.

The petition for rehearing is denied.

D035954 Imperial County Department of Social Services v. Superior Court of Imperial County/Nicholas H. et al.

That portion of the superior court's July 5, 2000, order releasing the children to their mother's custody is STAYED until further order of this court. Real Parties in Interest are directed to file a response to the petition on or before 9 a.m. on July 17, 2000.

D035566 In re Adkins on Habeas Corpus

The petition is denied.

D035286 In re Quintana on Habeas Corpus

The petition is denied.

D035606 Johnson v. Workers' Compensation Appeals Board/J.B. Hunt et al.

The petition is denied.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

July 11, 2000

D035901 In re Infante on Habeas Corpus

The petition is denied without prejudice to refile in the correct court.

**D035830 Global Minerals and Metals Corporation et al. v. Superior Court of San Diego
County/U.S. West Communications, Inc. et al.**

The petition is denied.

D035599 In re Bogard on Habeas Corpus

The petition is denied without prejudice to refile after consideration by the superior court.

D035909 Stivalet v. Superior Court of San Diego County/Couturier

The petition is denied.

D035908 Casserley v. Superior Court of San Diego County/Billings

The petition is denied.

D034190 People v. Campbell

The order setting aside the tying or binding allegation is reversed. CERTIFIED FOR PUBLICATION.
Benke, Acting P.J.; We Concur: McIntyre, J., O'Rourke, J.

D034693 Ruiz v. Camacho, et al.

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 17(a).
The appeal is dismissed.

Court convened at 9:00 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate
Justices Judith Haller and James McIntyre
Deputy Clerk: D. E. Moore

D032162 Henry v. Department of Corrections for the State of California

Cause called on merits. William R. Winship, Jr., Esq. argued for appellant/cross-respondent.
H. Paul Kondrick, Esq. argued for respondent/cross-appellant. Mr. Winship replied. Mr. Kondrick
replied. Cause submitted.

D030910 Barr v. Mission Bay Hospital of San Diego

Cause called on merits. James Toledano, Esq. argued for appellant. Dan Deuprey, Esq. argued for
respondent, Mission Bay Hospital. Jeffrey Miller, Esq. argued for respondent, Kelman. Mr. Toledano
replied. Cause submitted.

Court recessed at 10:20 a.m. to change panel members. New panel members: The Honorable Don Work,
Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and James McIntyre

COURT OF APPEAL OF STATE OF CALIFORNIA
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DIVISION ONE

July 11, 2000 (Continued)

D032597 Hale v. Butz, Lucas & Dunn

Cause called on merits. Charles A. Viviano, Esq. argued for appellant telephonically. Roy G. Weatherup, Esq. argued for respondent, Butz, Lucas & Dunn. Charles R. Grebing, Esq. argued for respondent, Shifflet, Walters, Kane & Konoske. Mr. Viviano replied. Cause submitted.

Court recessed at 11:15 a.m. until 1:30 p.m.

D033776 People v. Braswell

The judgment is affirmed. Huffman, Acting P.J.; We Concur: Haller, J., McIntyre, J.

D035210 In re Rosemary M., a Juvenile

The judgment is affirmed. Work, J.; We Concur: Kremer, P.J., Nares, J.

Court reconvened at 1:30 p.m.

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Don Work and Patricia Benke

Deputy Clerk: D. E. Moore

D033307 People v. Quiroz

D035068 In re Quiroz on Habeas Corpus

Causes called on merits. Patrick Ford, Esq. argued for appellant. Gil Gonzalez, Deputy Attorney General argued for respondent. Mr. Gonzalez replied for appellant. Cause submitted as to appeal ONLY, D033307.

D033992 People v. Bhatt

Cause called on merits. Chuck Sevilla, Esq. argued for appellant. Nancy Palmieri, Deputy Attorney General argued for respondent. Mr. Sevilla replied for appellant. Cause submitted.

Court recessed at 2:43 p.m. to change panel members. New panel members: The Honorable Don Work, Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and Judith Haller

D030787) C. W. Ives Construction, Inc. v. Kvaas Construction Company, Inc.

D031586) C. W. Ives Construction, Inc. v. Kvaas Construction Company, Inc.

Cause called on merits. Tim Ireland, Esq. argued for appellant. Thomas R. Laube, Esq. argued for respondent. Mr. Ireland replied for appellant. Cause submitted.

Court recessed at 3:33 p.m. to change panel members. New panel members: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Don Work and Richard Huffman

D033714 Postal Annex+, Inc. v. Henderson

Cause called on merits. Ronald J. Mix, Esq. argued for appellant. Michael F. Millerick, Esq. argued for respondent. Mr. Mix replied for appellant. Cause submitted.

COURT OF APPEAL OF STATE OF CALIFORNIA
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DIVISION ONE

July 11, 2000 (Continued)

Court recessed at 4 p.m. until Wednesday, July 12, 2000 at 9 a.m.

D033458 Haragos, Jr. et al. v. Dykstra et al.

The judgment is reversed and the matter is remanded for further proceedings consistent with this opinion.

Costs are awarded to appellants. Respondents' request for sanctions is denied. McIntyre, J.;

We Concur: Kremer, P.J., McDonald, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

July 12, 2000

D035706 In re Anthony S. et al., Juveniles

The respondent has filed a motion to dismiss the appeal as to Nicholas S. Opposition has been filed and considered by the court. The motion to dismiss the appeal as to Nicholas S. is granted.

Court convened at 9:00 a.m.

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Gilbert Nares
Deputy Clerk: D. E. Moore

D033417 Ravet v. Ravet

Cause called on merits. Gary K. Ravet, argued for appellant in pro per. Michon Hinz, Esq. argued for respondent. Mr. Ravet replied. Cause submitted.

D031532 McKinney v. Del Rio

Cause called on merits. Kevin R. McLean, Esq. argued for appellant. Miles D. Scully, Esq. argued for respondent. Mr. McLean replied for appellant. Cause submitted.

D033764 Noah's Enterprises, Inc. v. Chiquita Brands International, Inc.

Cause called on merits. James A. Mangione, Esq. argued for appellant. Randall Joseph Sunshine, Esq. argued for respondent. Mr. Mangione replied for appellant. Cause submitted.

D033898 Duncan v. Otay Water District

Cause called on merits. Mark J. Dillon, Esq. argued for appellant. Scott Patterson, Esq. argued for respondent. Mr. Dillon replied for appellant. Cause submitted.

Court recessed at 10:30 a.m. until 1:30 p.m.

D034408 Advance Checking, Inc. v. Bank of America, et al.

The motion to dismiss the appeal as to Bank of America is granted without prejudice to filing a petition for writ of mandate. The appeal as to ChexSystems is to proceed in the normal course.

D034463 McDuff v. State of California

The judgment is affirmed. Costs are awarded to respondent. Huffman, Acting P.J.; We Concur: Haller, J., McIntyre, J.

D035924 Dijulio & King et al. v. San Diego County Superior Court/Hauer

The petition is denied.

D035388 In re Hamilton on Habeas Corpus

The petition is denied.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

July 12, 2000 (Continued)

Court reconvened at 1:30 p.m.

Present: The Honorable Don Work, Acting Presiding Justice, and The Honorable Associate Justices Patricia Benke and James McIntyre
Deputy Clerk: D. E. Moore

D033199 Jones v. Holben & Roper

Cause called on merits. Douglas A. Pettit, Esq. argued for respondent. Brian H. Erickson, Esq. argued for appellant. Cause submitted.

D032488 People v. Robles

Cause called on merits. Ronda G. Norris, Esq. argued for appellant. Craig Nelson, Deputy Attorney General argued for respondent. Ms. Norris replied for appellant. Submission is delayed for 2-weeks. Supplemental briefing is due to be filed within 2-weeks.

D034082 McDonald v. State of California, Department of Motor Vehicles

Cause called on merits. Richard W. Trost, Esq. argued for appellant. Anne Hunter, Deputy Attorney General argued for respondent. Mr. Trost replied for appellant. Cause submitted.

Court recessed at 2:37 p.m. to change panel members. New panel members: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Don Work and James McIntyre

D031872 Pelletier v. Agouron Pharmaceuticals, Inc.

Cause called on merits. Marcelle E. Mihaila, Esq. argued for appellant/cross-respondent. Daniel B. MacLeod, Esq. argued for respondent/cross-appellant. Ms. Mihaila replied. Cause submitted.

Court recessed at 3:50 p.m. until Thursday, July 13, 2000 at 9:00 a.m.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

July 13, 2000

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justice Judith Haller and James McIntyre
Deputy Clerk: D. E. Moore

D035041 San Diego County Public Law Library v. Superior Court

Matter called on merits. Michael Kaye, Esq. argued for petitioner. Joseph H. Duff, Esq. argued for real party in interest. Mr. Kay replied. Matter submitted.

Court recessed at 10:15 a.m. until 1:30 p.m.

D034763 In re Gerald W., a Juvenile

The request for publication of the opinion is denied.

D035043 In re Manuel L., a Juvenile

Judgment affirmed. Benke, J.; We Concur: Kremer, P.J., Haller,

D029700 Shega v. Lewis, D'Amato, Brisbois & Bisgaard LLP et al.

The petition for rehearing is denied.

D032517 People v. McGann

D034548 In re McGann on Habeas Corpus

The pending petition for writ of habeas corpus, In re Francisco McGann, D034548, is consolidated with the pending appeal, The People v. Francisco McGann, D032517, for disposition.

D032517 People v. McGann

D034548 In re McGann on Habeas Corpus

That portion of the judgment convicting McGann of the murder of Isidro Caro and the related enhancement is reversed and the matter is remanded for a new trial on that count. In all other respects the judgment is affirmed. The petition for a writ of habeas corpus is dismissed. Work, Acting P.J.; We Concur: Benke, J., McIntyre, J.

D033794 People v. Phelps

The judgment is affirmed. Kremer, P.J.; We Concur: Work, J., Benke, J.

D029860 Balascio et al. v. Eck et al.

D030325 (consolidated)

The judgment is reversed and the cause remanded for a new trial. The order awarding Andrus and Eck expert witness fees is vacated. Costs on appeal are awarded to the Balascios. McIntyre, J.; We Concur: Nares, Acting P.J., McDonald, J.

Court reconvened at 1:30 p.m.

COURT OF APPEAL OF STATE OF CALIFORNIA
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July 13, 2000 (Continued)

Present: The Honorable Don Work, Acting Presiding Justice, and The Honorable Associate Justices
Patricia Benke and Gilbert Nares
Deputy Clerk: D. E. Moore

D034559 Cirello v. Cirello

Cause called on merits. Vincent Cirello, argued for appellant in pro per. Stephen Temko, Esq. argued for respondent. Mr. Cirello replied. Cause submitted.

D034020 Frederickson Enterprises, Inc. v. Rancho Palo Verde Homeowners Association

Cause called on merits. John T. Farmer, Esq. argued for appellant. Jeffrey N. Garland, Esq. argued for respondent. Mr. Farmer replied for appellant. Cause submitted.

D030749 Sickels v. Johnson & Higgins of California

Cause called on merits. James A. Roberts, Esq. argued for appellant/cross-respondent. John H. Podesta, Esq. argued for respondent/cross-appellant, Johnson & Higgins. Karl Sorenson, Esq. argued for respondent/cross-appellant, Pacific Employers Insurance Company. Mr. Roberts replied. Mr. Podesta replied. Cause submitted.

Court recessed at 2:50 p.m. until Monday, July 17, 2000 at 9:00 a.m.

D035646 In re Davis on Habeas Corpus

The petition is denied.

D035389 Glenda H. v Superior Court of San Diego County/San Diego County Health and Human Services Agency

The petition is denied. Benke, J.; We Concur: Kremer, P.J., O'Rourke, J.

D034286 Tackett et al. v. Imperial County Retirement Board et al.

The request for publication of the opinion is denied.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

July 14, 2000

D033606 Pickford Realty, Ltd. v. Styvaert/Willis M. Allen Company

The superior court's order of May 7, 1999 is reversed insofar as it awards Willis Allen attorney fees of \$29,274.00. The matter is remanded and the superior court is directed to enter a new order awarding Willis Allen attorney fees of \$14,129.44. Each party is to bear its own costs and fees incurred in connection with this appeal. McIntyre, J.; We Concur: Kremer, P.J., Nares, J.

D033171 Teyssier v. City of San Diego

D033622 McCarty v. City of San Diego

The petition for rehearing is denied.

D032497 Cattedra et al. v. Marincovich et al.

That part of the judgment prohibiting parking in the Marincovich garage is reversed. Otherwise, the judgment is affirmed. The Cattedras are entitled to costs on appeal. Work, Acting P.J.; We Concur: Benke, J., McIntyre, J.